

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**DAVID S. TATUM,**

**Plaintiff,**

**v.**

**TAKEDA PHARMACEUTICALS  
NORTH AMERICA, INC., TAKEDA  
PHARMACEUTICALS AMERICA, INC.,  
TAKEDA PHARMACEUTICALS  
INTERNATIONAL, INC., TAKEDA  
PHARMACEUTICALS COMPANY  
LIMITED, TAKEDA  
PHARMACEUTICALS, LLC, TAKEDA  
AMERICA HOLDINGS, INC., TAKEDA  
GLOBAL RESEARCH &  
DEVELOPMENT CENTER, INC.,  
TAKEDA SAN DIEGO, INC., TAP  
PHARMACEUTICALS PRODUCTS,  
INC., ABBOTT LABORATORIES, INC.,  
DOES 1 THROUGH 100 INCLUSIVE,**

**Defendants.**

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**CIVIL ACTION**

**NO. 12-1114**

**ORDER**

**AND NOW**, this 18th day of October, 2012, upon consideration of Defendants' Takeda Pharmaceuticals International, Inc., Takeda Pharmaceuticals, LLC, Takeda Global Research & Development Center, Inc., Takeda Pharmaceuticals U.S.A., Inc., Takeda Pharmaceuticals America, Inc. and Abbott Laboratories, Inc.'s Motion to Dismiss Counts I, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, and Punitive Damage Claims of Plaintiffs' [sic] Amended Complaint (Document No. 12, filed June 20, 2012) ("Defendants' Motion to Dismiss") and Plaintiff David S. Tatum's Memorandum of Law in Opposition to Defendants' Motion to Dismiss (Document No. 15, filed July 19, 2012), **IT IS ORDERED** that Defendants' Motion to Dismiss is **GRANTED IN PART AND DENIED IN PART** as follows:

1. Defendants' Motion to Dismiss is **GRANTED** with respect to Count I – equitable tolling of applicable statute of limitations; Count IX – strict product liability: defective design; Count XI – strict product liability: failure to warn; and Count XIII – unjust enrichment; and all such claims are **DISMISSED WITH PREJUDICE**.

2. Defendants' Motion to Dismiss is **DENIED** with respect to the remaining claims: Count V – negligent misrepresentation; Count VI – breach of express warranty; Count VII – breach of implied warranty for a particular purpose; Count VIII – breach of implied warranty of merchantability; Count X – strict product liability: manufacturing defect; Count XII – fraudulent concealment; and Count XIV – violations of Pennsylvania Unfair Trade Practices and Consumer Protection Law.

3. Defendants' Motion to Dismiss is **DENIED** with respect to plaintiff's request for punitive damages.

**IT IS FURTHER ORDERED** that a preliminary pretrial conference will be scheduled in due course.

**BY THE COURT:**

/s/ Hon. Jan E. DuBois

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**JAN E. DuBOIS, J.**